

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**COTTON STATES MUTUAL
INSURANCE COMPANY,**

Plaintiff,

V. S

Case No. 2:07cv868-WKW

**LEE A. SELLARS, LINDLEY SELLARS
and JASON ANDREW DONALD,**

Defendants.

**ANSWER OF DEFENDANTS LEE A. SELLARS
AND LINDLEY SELLARS TO PLAINTIFF'S AMENDED COMPLAINT**

Defendants Lee A. Sellars and Lindley Sellars (hereinafter collectively "Defendants") answer the plaintiff's Amended Complaint in this matter as follows:

FIRST DEFENSE

The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

For answer to the numbered paragraphs of the plaintiff's Amended Complaint,
Defendants state as follows:

1. Admitted.
 2. Admitted.
 3. Admitted.
 4. Admitted that Lindley Sellars is an individual citizen of the State of Alabama, but

denied as to the remaining allegations of this paragraph.

5. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and therefore, deny the same.

6. Admitted.

7. Defendants admit that this is an action for Declaratory Judgment, but deny the plaintiff is entitled to any of the relief requested as to them.

8. Admitted.

9. Defendants deny that an "actual controversy" exists between the plaintiff and Defendants and demand strict proof thereof, but admit the remaining allegations of this paragraph.

10. Defendants admit that the subject policy period began in November 6, 2006, but deny that the Declaration Page, attached as Exhibit "B" to the Amended Complaint, is a complete and accurate Declarations Page for this policy period.

11. Defendants deny that the facts as alleged in this paragraph occurred on "April 3, 2007," but admit the remaining allegations of this paragraph.

12. Defendants deny that "April 3, 2007" is the correct date that the subject vehicle was operated, but admit the remaining allegations of this paragraph.

13. Admitted.

14. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and therefore, deny the same.

15. Defendants admit that Lee Sellars filed a report with the Foley, Alabama Police Department on April 2, 2007 reporting the unauthorized use of the vehicle by Defendant Jason Donald, that the report/case number given by the Foley Police Department is 071642, and that the report is attached to the Amended Complaint as Exhibit "C". Defendants deny the remaining allegations in this paragraph and demand strict proof thereof.

16. Admitted.

17. Defendants deny that their "interest" could be affected by this action, and demand strict proof thereof, but admit the remaining allegations of this paragraph.

18. Defendants deny the allegations of this paragraph as to them and demand strict proof thereof.

19. Defendants deny the allegations of this paragraph as to them and demand strict proof thereof.

20. Defendants deny the allegations of this paragraph as to them and demand strict proof thereof.

21. Defendants deny the allegations of this paragraph as to them and demand strict proof thereof.

22. Defendants deny the allegations of this paragraph as to them and demand strict proof thereof.

23. The allegations of this paragraph are not directed at Defendants, and therefore, no response is required.

24. Defendants deny the allegations of this paragraph and demand strict proof thereof.

25. The allegations of this paragraph are not directed at Defendants, and therefore, no response is required.

26. The allegations of this paragraph are not directed at Defendants, and therefore, no response is required.

27. Defendants deny the allegations of this paragraph to the extent of any claim made to the plaintiff on Defendants' behalf and demand strict proof thereof.

THIRD DEFENSE

As to the paragraph of the plaintiff's Amended Complaint beginning with "WHEREFORE", Defendants deny that the plaintiff is entitled to a judgment as requested as to them, deny that the plaintiff is entitled to costs of this action, and deny that the plaintiff is entitled to any other relief for the claims and allegations raised in the Amended Complaint or otherwise as to them.

FOURTH DEFENSE

Defendants deny each and every allegation of the Amended Complaint that is not expressly admitted and further denies that the plaintiff is entitled to any relief.

FIFTH DEFENSE

Defendants plead the defenses of unclean hands, waiver, and estoppel (judicial, legal, and/or equitable).

SIXTH DEFENSE

Defendants pleads as a defense to the plaintiff's Amended Complaint that the plaintiff has already agreed to provide Defendants with indemnity and defense without a reservation of rights with regards to the claims being made against them by Rosemary and Steven Stanley in the lawsuit entitled *Rosemary Stanley and Steven Stanley v. Jason Donald and Lindley Sellars and Lee Sellars*, CV-2008-900137, Circuit Court of Baldwin County, Alabama.

SEVENTH DEFENSE

Defendants reserve the right to assert additional defenses based upon information learned during the course of this litigation and/or through discovery in this action.

Respectfully submitted this 9th day of May, 2008.

/s/Louis M. Calligas

One of the Attorneys for Defendants,
Lee A. Sellars and Lindley Sellars

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon the following this the 9th day of May, 2008.:

Jannea S. Rogers
William P. Blanton
Adams and Reese, LLP
P.O. Box 1348
Mobile, AL 36633-1348

In addition, I hereby certify that I have mailed by United States Postal Service a copy of the foregoing document to the following non-CM/ECF participants this the 9th day of May, 2008.

James Andrew Donald
9655 Wilson Road
Elberta, Alabama 36530

/s/ Louis M. Calligas

OF COUNSEL